

REMARKS

The present amendment and request for reconsideration is filed in response to the Office Action mailed January 26, 2005, the period of response having been extended to June 26, 2005. Claims 1-4, 7-17, 20-24, 26-32, 44-47, 50-63, and 66-99 remain pending in the application.

In the Office Action, Claims 75-79 and 81-86 were indicated as being allowable if rewritten in independent form. Applicant has added new Claims 89-93 and 94-99 that incorporate the features of these claims. It is therefore submitted that these claims are now in condition for allowance.

Claims 1, 8-10, 12, 13, 44, 51-53 and 56 were rejected under 35 U.S.C. § 102(a) as being anticipated by Whitehead et al., U.S. Patent No. 6,201,989. In the Office Action, it states that Whitehead et al. anticipates all claimed features of Claims 1 and 44 by disclosing a method and apparatus wherein an *in vivo* or insertable device having a light source 122 to generate light with an array of optical probe 120 to detect light generated by light source 122. The light source and the probe are housed within a frame 112. The probe is designed to detect optical properties of the reflected light from a surrounding tissue when inserted into the body. Applicant respectfully traverses the rejection.

Nothing in the Whitehead et al. reference teaches or suggests the combination of features set forth in Claims 1 and 44 including an array of probes wherein each probe comprises at least one optically detectable probe material having an affinity for one or more constituent molecules in the body and a detectable optical property when linked to a molecule with which the probe material has an affinity. Similarly, with respect to Claim 44, it is submitted that the Whitehead et al. reference does not teach or suggest the claimed combination of features including a device having an array of probes comprising an optically detectable probe material having an affinity for an analyte and an optically detectable property when the probe material is exposed to the

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

analyte. Because the Whitehead et al. reference does not teach or suggest each and every element of these claims, it is submitted that Claims 1, 44 and the claims that depend thereon are allowable over the cited reference.


Claims 2, 3, 4, 5, 46, and 50 were rejected under 35 U.S.C. § 103(a) over Whitehead et al. in view of Hunter et al., U.S. Patent No. 5,716,981. In addition, Claims 4, 7, 11, 14, 15, 17, 20-23, 26, 31, 32, 47, 54, 57, 59-63, 66-69, 71, 80, 87, and 88 were rejected under 35 U.S.C. § 103(a) over Whitehead et al. in view of Kovacs et al., U.S. Patent No. 5,833,603.

Applicant respectfully submits that the Examiner has not pointed to any teaching or suggestion in the cited reference that indicates they can or should be combined or suggested. Therefore, a prima facie case of obviousness has not been made. Further, the rejected claims depend from and further define allowable independent claims and are therefore allowable for at least this reason.

In light of the above, it is requested that the Examiner withdraw the rejections and pass this case to issue at the earliest possible date.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



Rodney C. Tullett
Registration No. 34,034
Direct Dial No. 206.695.1730

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date:

June 21, 2005

Lamela M. Tucker

RCT:pt

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100